IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRI.W.P.NO.125 OF 2007

Baijnath Ramdeo Jaiswar ..Petitioner
Vs.
The Dy.Commissioner of Police
Zone-IX, Bandra Bombay
& Ors. ..Respondents

...

Mr. R.P.Ojha Advocate for Petitioner
Ms. S.V.Gajare A.P.P. for Respondents

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CORAM: SMT.V.K.TAHILRAMANI,J.
DATE : FEBRUARY 23, 2007

P.C.

1. Heard the learned counsel for the petitioner and the learned A.P.P. for the State.

2. The petitioner has been externed by order dated 7.10.2006 by the Deputy Commissioner of Police Zone-IX, Bandra, for a period of six months. The petitioner has preferred an appeal against the said order. The said appeal came to be dismissed.

3. The order of externment has been passed on the basis of one C.R. i.e. C.R.No.63 of 2006 and two incamera statements. The petitioner is the landlord and had disputes between him and some of his tenants. Mr.Ojha states that petitioner has

about 125 tenants. C.R.No. 63 of 2006 is lodged by Smt.Bino Vishwakarma. She is the tenant of the petitioner. On 8.2.2006 the petitioner entered into the house of the complainant along with other accused. He asked about whereabouts of her husband. On not getting reply, the petitioner assaulted her as well as her mother-in-law. The petitioner caught hold of the complainant and beat her by kick and fist blows on her stomach. At that time, the complainant was four months pregnant. On account of beating, the complainant started bleeding. She was admitted into hospital. However, she suffered a miscarriage. Besides this, there are two statements of incamera witnesses who have stated that the petitioner extorted money from them at the point of deadly weapons and the petitioner is in the habit of doing this in respect of hawkers in the said locality.

4. The learned counsel for the petitioner submitted that allegations in the said C.R. and incamera statements are false. However, on looking through the statement of the complainant and the incamera witnesses and other material on record, I find no merit in the submission that the

allegations therein are false.

5. Thereafter, the learned counsel for the petitioner submitted that an order of externment under Section 56-A of the Bombay Police Act can be passed only if there is alarm, danger harm to the person or property of the public at large. He has placed reliance on the decision of this Court in the case of **Balu Shivling Dombe Vs.The Divisional Magistrate, Pandharpur, reported in 1968 Bombay Law Reporter (LXXI) page 79.** He has submitted that in the present case only private individuals are affected and not the public at large. However, it is seen that there are disputes between the petitioner and some of his tenants. The petitioner has large number of tenants. Looking to this fact and the statements of the incamera witnesses, it is seen that there is alarm danger or harm to the public at large and the feeling of alarm, harm or danger cannot be limited to individuals. Thus, there is no merit in this submission.

6. Lastly, the learned counsel for the petitioner has submitted that incamera statements are vague and they do not give the date, place and nature of

the incidents and hence, the petitioner is not able to adequately meet those charges. In relation to incamera statements, no particulars which would fix the identity of the incamera witness can be given, otherwise the life of the witness would be in danger. On perusal of the material given in respect of the incamera statements, it is seen that the approximate time has been stated in the incamera statements. Enough particulars have been given to the petitioner to enable him to meet the charges. In the decision of the Supreme Court in the case of **Pandharinath Shridhar Rangnekar Vs. Dy.Commissioner of Police, the State of Mah.; (1973) 1 S.C.C. 372,** it is stated that "the proposed externee is only entitled to be informed of the general nature of the material allegations, otherwise, it would be easy to fix the identity of witnesses who are unwilling to dispose in public against the proposed externee/externess. A reasoned order containing a discussion of the evidence led against the externee would probably spark off another round of tyranny and harassment". As stated earlier, enough particulars have been given in respect of the incamera statements. Hence, I find no merit in this submission.

7. In this view of the matter, no case is made out for interference. Writ Petition is disposed of.

[V.K.Tahilramani, J.]